

§ 3.308

where the particular disease is endemic. The known incubation periods of tropical diseases should be used as a factor in rebuttal of presumptive service connection as showing inception before or after service.

(2) The presumption of aggravation provided in this section may be rebutted by affirmative evidence that the preexisting condition was not aggravated by service, which may include affirmative evidence that any increase in disability was due to an intercurrent disease or injury suffered after separation from service or evidence sufficient, under § 3.306 of this part, to show that the increase in disability was due to the natural progress of the preexisting condition.

(Authority: 38 U.S.C. 101(24), 501(a), 1116(a)(3), and 1821)

[26 FR 1581, Feb. 24, 1961, as amended at 35 FR 18281, Dec. 1, 1970; 39 FR 34530, Sept. 26, 1974; 43 FR 45347, Oct. 2, 1978; 47 FR 11655, Mar. 18, 1982; 58 FR 29109, May 19, 1993; 59 FR 5106, Feb. 3, 1994; 59 FR 29724, June 9, 1994; 61 FR 57588, Nov. 7, 1996; 62 FR 35422, July 1, 1997; 67 FR 67793, Nov. 7, 2002; 68 FR 34541, June 10, 2003; 76 FR 4248, Jan. 25, 2011; 78 FR 54766, Sept. 6, 2013; 80 FR 35248, June 19, 2015]

§ 3.308 Presumptive service connection; peacetime service before January 1, 1947.

(a) *Chronic disease.* There is no provision for presumptive service connection for chronic disease as distinguished from tropical diseases referred to in paragraph (b) of this section based on peacetime service before January 1, 1947.

(b) *Tropical disease.* In claims based on peacetime service before January 1, 1947, a veteran of 6 months or more service who contracts a tropical disease listed in § 3.309(b) or a resultant disorder or disease originating because of therapy administered in connection with a tropical disease or as a preventive, will be considered to have incurred such disability in service when it is shown to exist to the degree of 10 percent or more within 1 year after separation from active service, or at a time when standard and accepted treatises indicate that the incubation period commenced during active service unless shown by clear and unmistakable evidence not to have been of service origin. The requirement of 6

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months or more service means active, continuous service, during one or more enlistment periods.

(Authority: 38 U.S.C. 1133)

[39 FR 34530, Sept. 26, 1974]

§ 3.309 Disease subject to presumptive service connection.

(a) *Chronic diseases.* The following diseases shall be granted service connection although not otherwise established as incurred in or aggravated by service if manifested to a compensable degree within the applicable time limits under § 3.307 following service in a period of war or following peacetime service on or after January 1, 1947, provided the rebuttable presumption provisions of § 3.307 are also satisfied.

Anemia, primary.
Arteriosclerosis.
Arthritis.
Atrophy, progressive muscular.
Brain hemorrhage.
Brain thrombosis.
Bronchiectasis.
Calculi of the kidney, bladder, or gallbladder.

Cardiovascular-renal disease, including hypertension. (This term applies to combination involvement of the type of arteriosclerosis, nephritis, and organic heart disease, and since hypertension is an early symptom long preceding the development of those diseases in their more obvious forms, a disabling hypertension within the 1-year period will be given the same benefit of service connection as any of the chronic diseases listed.)

Cirrhosis of the liver.
Coccidioidomycosis.
Diabetes mellitus.
Encephalitis lethargica residuals.
Endocarditis. (This term covers all forms of valvular heart disease.)
Endocrinopathies.
Epilepsies.
Hansen's disease.
Hodgkin's disease.
Leukemia.
Lupus erythematosus, systemic.
Myasthenia gravis.
Myelitis.
Myocarditis.
Nephritis.
Other organic diseases of the nervous system.
Osteitis deformans (Paget's disease).
Osteomalacia.